

The Honorable Lauren J. King

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON, et al.,

Plaintiffs,

v.

DONALD TRUMP, in his official capacity as  
President of the United States, et al.,

Defendants.

No. 2:25-cv-00244-LJK

**DEFENDANTS' REPLY TO MOTION  
FOR STAY OF PROCEEDINGS  
PENDING APPEAL OF  
PRELIMINARY INJUNCTION**

Noted For Consideration:  
April 4, 2025

## **INTRODUCTION**

Plaintiffs fail to marshal any sound reason against a stay. They fail to identify any material hardship they would suffer from the stay that Defendants have actually requested, instead objecting to a stay of their own creation that ignores the express limitations that Defendants set out in their motion. Plaintiffs' attempt to minimize the import of the Ninth Circuit's decision on appeal also falters. At bottom, Plaintiffs simply rehash their view of the merits and insist they will win on appeal. But these are substantial questions over which the Ninth Circuit may disagree; and Plaintiffs do not (and cannot) explain why if that court does so, it would not materially resolve critical issues in this case. Finally, Plaintiffs do not persuasively rebut Defendants' showing that proceeding to full-blown discovery will impose undue burdens on the parties and the Court—burdens that may be unnecessary or misdirected depending on the Ninth Circuit's decision. Defendants respectfully request that the Court issue a stay of proceedings on Plaintiffs' existing claims, other than any necessary and jurisdictionally proper proceedings regarding the scope or enforcement of the Court's preliminary injunction.

## **ARGUMENT**

### **I. A STAY WOULD PROMOTE THE ORDERLY COURSE OF JUSTICE.**

As set out in Defendants' opening brief, a stay pending appeal is likely to materially simplify the issues in this case, because the Ninth Circuit's decision will bear on the central legal questions at issue, including: ripeness, the President's Article II authority, the relevance and extent of agencies' delegated authority to award grants, the appropriate level of review under the Equal Protection Clause, and the importance of the government's interests intended to be served by the Executive Orders at issue.

1 Plaintiffs unpersuasively respond primarily by arguing that Defendants are wrong on  
 2 the merits. They argue that this case is ripe on the basis of a grant termination that the agency  
 3 has since reinstated, *see* ECF No. 267, and disagree with what they claim are Defendants’  
 4 “theories” of Article II authority. Pls.’ Opp. to Defs.’ Mot. for Stay of Proceedings Pending  
 5 Appeal of PI (“Pls.’ Opp.”) at 6–7, ECF No. 269. They (wrongly) contend that Defendants bear  
 6 the burden of showing that agencies have authority to take actions they have not yet taken, and  
 7 accuse Defendants of failing to meet such a burden. *Id.* at 7. And they misconstrue Defendants’  
 8 equal protection arguments as purely dependent on “overturn[ing] circuit precedent”—which  
 9 is, for that matter, an outcome Plaintiffs themselves concede could well occur because of the  
 10 Supreme Court’s forthcoming decision in *United States v. Skrmetti*, No. 23-477 (U.S.). Pls.’  
 11 Opp. at 7–8.

12 While Plaintiffs—and even the Court—may disagree with Defendants on these issues,  
 13 they are nonetheless weighty ones over which (at minimum) reasonable minds can disagree.  
 14 Given the import of these issues and the substantial potential for disagreement, thinking the  
 15 Ninth Circuit might affirm is not a sufficient ground for declining a stay. *See, e.g., Mobilize the*  
 16 *Message LLC v. Bonta*, 2021 WL 6104312, at \*5 (C.D. Cal. Sept. 17, 2021) (granting stay of  
 17 proceedings pending outcome of interlocutory appeal of ruling on motion for preliminary  
 18 injunction); *Kuang v. United States Dep’t of Def.*, 2019 WL 1597495, at \*6 (N.D. Cal. Apr. 15,  
 19 2019) (similar).

20 Plaintiffs also rely on dicta from distinguishable Ninth Circuit cases disfavoring stays  
 21 pending interlocutory appeals in some circumstances, *see* Pls.’ Opp. at 5–6, but do not address  
 22 the cases Defendants cited that explain the limited scope of that dicta. As the court stated in  
 23 *Mobilize the Message*, “courts do not interpret the Ninth Circuit’s warnings as prohibitively as  
 24

1 [Plaintiffs] suggest[],” and “[t]here are numerous examples of courts granting a motion to stay  
2 proceedings pending the appeal of an order granting or denying a preliminary injunction.” 2021  
3 WL 6104312, at \*2. The Ninth Circuit’s cases do not militate against a stay where there are  
4 “purely legal” issues at stake, *Kuang*, 2019 WL 1597495, at \*6, nor is this a case where “no . . .  
5 justification or analysis supporting the stay” was provided, *California v. Azar*, 911 F.3d 558,  
6 584 n.8 (9th Cir. 2018).

7 **II. ABSENT A STAY, DISCOVERY WILL IMPOSE A HEAVY BURDEN ON DEFENDANTS AND**  
8 **THE COURT.**

9 Plaintiffs have little answer to Defendants’ showing that proceeding with discovery will  
10 impose substantial burdens on the parties and the Court—particularly in sensitive areas of  
11 executive privilege and constitutional responsibility.

12 Instead, Plaintiffs puzzlingly point to the raft of discovery they have *already* served.  
13 That discovery only confirms the burdens of what would follow, absent a stay: Indeed, as their  
14 first step into what was to be “limited” expedited discovery on a “narrow issue” regarding a  
15 single (and now reinstated) grant termination, Order Denying Plaintiffs’ Motion for Contempt  
16 and Attorney’s Fees and Granting Plaintiffs’ Motion for Expedited Discovery at 15, ECF No.  
17 258, Plaintiffs noticed three depositions, served requests for production, interrogatories, and  
18 subpoenas duces tecum, and refused to withdraw any of these requests when the grant was  
19 reinstated.

20 It is no answer to say, as Plaintiffs do, that Defendants can simply “object” when future  
21 discovery disagreements arise. Pls.’ Opp. at 8. Identifying, justifying, and adjudicating those  
22 objections is itself a burden on the parties and the Court—one that potentially embroils the  
23 parties and the Court in resource-intensive disputes on issues that may change significantly  
24 based on the Ninth Circuit’s decision on Defendants’ appeal (and the Supreme Court’s decision

1 in *Skrmetti*). *Rajput v. Synchrony Bank*, 2016 WL 6433134, at \*5, \*7 (M.D. Pa. Oct. 31, 2016)  
 2 (granting stay where appellate ruling likely would impact “the scope of the issues and  
 3 discovery needed in th[e] case”). And such a course would disregard, rather than pay heed to,  
 4 the “special considerations” that “control when the Executive Branch’s interests in maintaining  
 5 the autonomy of its office and safeguarding the confidentiality of its communications are  
 6 implicated.” *Cheney v. U.S. Dist. Ct. for the Dist. of Columbia*, 542 U.S. 367, 385 (2004).

### 7 **III. A STAY WILL NOT PREJUDICE PLAINTIFFS.**

8 Neither of the two theories of harm Plaintiffs offer supports their contention that they  
 9 will be prejudiced by a stay.

10 *First*, Plaintiffs say that they will be harmed during the pendency of Defendants’  
 11 requested stay because the Court did not enjoin Section 8(a) of Executive Order 14,168, 90  
 12 Fed. Reg. 8615, *Defending Women from Gender Ideology Extremism and Restoring Biological*  
 13 *Truth to the Federal Government* (the “Defending Women EO”). As an initial matter, the fact  
 14 that Section 8(a) is not enjoined does not harm Plaintiffs because, as the Court has already  
 15 concluded, they “do not have standing to challenge Section 8(a)” in the first place. Order  
 16 Granting in Part and Denying in Part Motion for Preliminary Injunction at 18–19, ECF No.  
 17 233. For the same reasons, Plaintiffs have not established a “fair possibility” that they will be  
 18 harmed by Section 8(a) during the pendency of a stay, which distinguishes their cited authority.  
 19 *Karnoski v. Trump*, 2017 WL 11434151, at \*1 (W.D. Wash. Nov. 20, 2017).

20 *Second*, Plaintiffs say that they will be harmed if the stay prevents them from  
 21 “amend[ing] their complaint to challenge . . . new policies and additional ones Defendants may  
 22 implement in the future.” Pls.’ Opp. at 4. This contention is unpersuasive because Defendants  
 23 made clear that their requested stay would not “prevent Plaintiffs from seeking to amend their  
 24

complaint” to add new claims. Defs.’ Mot. for Stay of Proceedings Pending Appeal of PI at 8, ECF No. 263. To the extent Plaintiffs demand that the stay order include an express provision disclaiming application to attempts by Plaintiffs to amend their operative complaint, or to move for relief from any stay in place, Defendants do not object to such a provision.

### CONCLUSION

For these reasons, Defendants respectfully request that the Court grant Defendants’ Motion for Stay of Proceedings Pending Appeal of Preliminary Injunction.

DATED: April 4, 2025

Respectfully submitted,

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*I certify that this memorandum contains 1,297 words, in compliance with the Local Civil Rules.*

**CERTIFICATE OF SERVICE**

I hereby certify that on April 4, 2025, I electronically filed the foregoing Reply to Defendants' Motion to Stay Proceedings Pending Appeal of Preliminary Injunction using this Court's CM/ECF system, causing a notice of filing to be served upon all counsel of record.

Dated: April 4, 2025

/s/ Christian S. Daniel  
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